

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JONATHAN SAEZ,	:	
	:	
	:	
Petitioner,	:	18 Civ. 8425 (PAE) (SDA)
-v-	:	16 Cr. 317-6 (PAE)
	:	
UNITED STATES OF AMERICA,	:	<u>OPINION &amp; ORDER</u>
	:	
Respondent.	:	
	:	
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PAUL A. ENGELMAYER, District Judge:

*Pro se* petitioner Jonathan Saez filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2255 on September 14, 2018. Dkt. 1. On September 19, 2018, this Court ordered the Government to respond, Dkt. 4, and referred the case to the Hon. Stewart D. Aaron, U.S. Magistrate Judge, Dkt. 3. On March 5, 2020, the Government filed its opposition. Dkt. 11. On October 8, 2019, Saez filed his reply. Dkt. 18. On May 20, 2020, Judge Aaron issued his Report and Recommendation to this Court. Dkt. 19 (“Report”).

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). When specific objections are made, “[t]he district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at \*2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at \*4


(S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

Because no party has timely submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Aaron's thorough and well-reasoned Report reveals that there is no facial error in its conclusions. The Court, therefore, adopts the Report in its entirety. The petition for habeas corpus is denied.

In addition, the Report expressly states that **"FAILURE TO OBJECT WITHIN FOURTEEN (14) DAYS WILL RESULT IN A WAIVER OF OBJECTIONS AND WILL PRECLUDE APPELLATE REVIEW."** Report at 19. Accordingly, each party's failure to object to the Report in a timely manner operates as a waiver of appellate review.<sup>1</sup> *See Caidor v. Onondaga County*, 517 F.3d 601, 604 (2d Cir. 2008); *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam). The Court declines to issue a certificate of appealability and certifies that any appeal from this order would not be taken in good faith; therefore, *in forma pauperis* status is denied for purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

The Clerk of Court is respectfully directed to close this case and to mail a copy of this order to Saez.

SO ORDERED.

  
Paul A. Engelmayer  
United States District Judge

Dated: June 19, 2020  
New York, New York

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<sup>1</sup> Saez has filed a notice of appeal, purporting to appeal the Report. *See* Dkts. 20–21. However, a pending report and recommendation from a magistrate judge is not appealable.